



General Assembly

January Session, 2005

***Raised Bill No. 6935***

LCO No. 4485

\* \_\_\_\_\_HB06935JUD\_\_041505\_\_\_\_\_\*

Referred to Committee on Judiciary

Introduced by:  
(JUD)

***AN ACT ESTABLISHING AN ALTERNATIVE RULE AGAINST  
PERPETUITIES.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1       Section 1. (NEW) (*Effective October 1, 2005*) Sections 1 to 5, inclusive,  
2       of this act may be cited as the "Alternative Rule Against Perpetuities".

3       Sec. 2. (NEW) (*Effective October 1, 2005*) (a) The provisions of sections  
4       1 to 5, inclusive, of this act do not apply unless a testator, settlor,  
5       transferor or other creator of a testamentary instrument, revocable or  
6       irrevocable inter vivos agreement or other document creating,  
7       amending or restating a trust or granting a power of appointment  
8       makes a qualifying election to have the Alternative Rule Against  
9       Perpetuities apply to the interests created thereunder in accordance  
10      with subsection (b) of this section.

11      (b) In order to constitute a qualifying election to be subject to the  
12      Alternative Rule Against Perpetuities: (1) The document shall evidence  
13      a specific intent to have the Alternative Rule Against Perpetuities  
14      apply; (2) the document shall, at the time of its execution, provide that  
15      the law of this state shall govern the interpretation of the document

16 and, in the case of a document creating a trust, the administration of  
17 the trust; (3) the creator of the document or the person exercising the  
18 power of appointment shall be domiciled in this state at the time the  
19 document is executed or the power is exercised or, in the case of a  
20 document creating a trust, one or more of the trustees of the trust shall  
21 be domiciled in this state at the time the document is executed; (4) the  
22 document may not provide for the suspension of the power of  
23 alienation with respect to property subject to the trust or the power of  
24 appointment, as provided in subsection (c) of this section; and (5) the  
25 document shall be executed on or after the effective date of this  
26 section.

27 (c) For the purposes of subdivision (4) of subsection (b) of this  
28 section:

29 (1) The power of alienation is suspended by a document if there is  
30 no person alive who, alone or in combination with others, may, as to  
31 property that is subject to the power granted or the trust created by the  
32 document, convey (A) title to real property in fee, or (B) complete  
33 ownership of personal property; and

34 (2) The power of alienation is not suspended by a document  
35 creating a trust if (A) the trustee of the trust has power, either  
36 expressed or implied, and either alone or in combination with others,  
37 to sell property subject to the trust, or (B) at least one person alive at  
38 the time the trust was created has an unlimited power to terminate the  
39 trust.

40 (d) Interests created under a document making a qualifying election  
41 to be subject to the Alternative Rule Against Perpetuities in accordance  
42 with subsection (b) of this section shall not be subject to the Uniform  
43 Statutory Rule Against Perpetuities as provided in sections 45a-490 to  
44 45a-496, inclusive, of the general statutes.

45 Sec. 3. (NEW) (*Effective October 1, 2005*) (a) A nonvested property  
46 interest is invalid unless the interest either vests or terminates within

47 one thousand years after its creation.

48 (b) A general power of appointment not presently exercisable  
49 because of a condition precedent is invalid unless the condition  
50 precedent is either satisfied or becomes impossible to satisfy within  
51 one thousand years after its creation.

52 (c) A nongeneral power of appointment or general testamentary  
53 power of appointment is invalid unless the power is irrevocably  
54 exercised or otherwise terminates within one thousand years after its  
55 creation.

56 Sec. 4. (NEW) (*Effective October 1, 2005*) (a) Except as provided in  
57 subsections (b) and (c) of this section, the time of creation of a  
58 nonvested property interest or a power of appointment is determined  
59 under general principles of property law.

60 (b) For the purposes of sections 1 to 5, inclusive, of this act, if there is  
61 a person who alone can exercise a power created by a governing  
62 document to become the unqualified beneficial owner of (1) a  
63 nonvested property interest, or (2) a property interest subject to a  
64 power of appointment described in subsection (b) or (c) of section 3 of  
65 this act, the nonvested property interest or power of appointment is  
66 created when the power to become the unqualified beneficial owner  
67 terminates.

68 (c) For the purposes of sections 1 to 5, inclusive, of this act, a  
69 nonvested property interest or a power of appointment arising from a  
70 transfer of property to a previously funded trust or other existing  
71 property arrangement is created when the nonvested property interest  
72 or power of appointment in the original contribution was created.

73 Sec. 5. (NEW) (*Effective October 1, 2005*) In the case of a disposition  
74 for which a qualifying election to be subject to the Alternative Rule  
75 Against Perpetuities has been made pursuant to section 2 of this act,  
76 upon petition of an interested person, a court shall reform such

77 disposition in the manner that most closely approximates the  
78 transferor's manifested plan of distribution and is within the one  
79 thousand years allowed by section 3 of this act if:

80 (1) A nonvested property interest or a power of appointment  
81 becomes invalid under section 3 of this act;

82 (2) A class gift is not but may become invalid under section 3 of this  
83 act and the time has arrived when the share of any class member is to  
84 take effect in possession or enjoyment; or

85 (3) A nonvested property interest may vest but not within one  
86 thousand years after its creation.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2005</i>	New section
Sec. 2	<i>October 1, 2005</i>	New section
Sec. 3	<i>October 1, 2005</i>	New section
Sec. 4	<i>October 1, 2005</i>	New section
Sec. 5	<i>October 1, 2005</i>	New section

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Sec. 5	<i>October 1, 2005</i>	New section

***JUD***      *Joint Favorable*